IN THE HIGH COURT OF JUDICATE OF ANDHRA PRADESH; AT HYDERABAD

PRESENT

THE HONOURABLE SRI JUSITCE R. SUBHASH REDDY

WRIT PETITION NO. 17356 OF 1994

DATE: 1ST FEBRUARY, 2006.

Between

Mangalagiri Komali …Petitioner

@ Sudarsana Komali

and

The Mandal Revenue Officer, Visakhapatnam and anr.

…Respondents.

HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION No. 17356 OF 1994

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ORDER:

The petitioner, who was granted D-form patta to an extent of Ac.5.04 cents in Sy.No.

71/5 of Paradesipalem, Visakhapatnam District, has questioned the order of the Mandal Revenue officer, dated 25-12-1990 passed in proceedings Rc.No.2703/85.

By impugned order, the first respondent has cancelled the patta granted to the petitioner on the ground, that the petitioner obtained patta by misrepresentation, stating that she was landless poor person and having income of only Rs.500/- per month. It is further stated in the impugned order, that the petitioner is the wife of businessman and obtained patta by giving false information. Referring the show cause notice dated 20-10-1990, this impugned order of cancellation was passed on 25-12-1990.

At first instance, the writ petition was filed seeking direction, by way of Writ of Mandamus, to direct the respondents not to evict the petitioner from the land covered by D-Form patta. But, however, when it is stated in the counter affidavit, that steps were already taken for eviction of the petitioner from the land in question, in view of cancellation of D-form patta given to her, the petitioner has filed petition to amend the prayer in the Writ Petition and Miscellaneous Petition filed in this regard was ordered by this Court on 23-10-2005.

It is submitted by Sri D.V.Seetharama Murthy, learned Counsel appearing for the petitioner, that having regard to the allegations made, the Mandal Revenue officer had no authority to pass the order of cancellation. It is further, submitted, that the show cause notice dated 20-10-1990, on which basis impugned order is passed, was not served on the petitioner. In support of his contention, that the MRO is not competent to cancel the patta, learned Counsel has placed reliance on the judgment of this Court in the case of *G.Munilakshmamma Vs, The District Collector, Chittoor District*

On the other hand, it is submitted by the learned Government Pleader appearing for the respondents, that as the petitioner obtained patta by misrepresentation and by giving false information, the patta granted to the petitioner was cancelled after conducting necessary enquiry.

In the case of G.Munilakshamamma (1 supra), this Court while considering the scope of A.P. Board Standing Orders, has held that Mandal Revenue Officer is not competent to cancel the D-form patta, which is alleged to have been obtained on misrepresentation or suppression of material facts. In the said judgment, it is further held, in such circumstances, the District Collector has power to cancel the patta under AP Board Standing Order 15. The said legal position on jurisdictional aspect is not disputed by the learned Government Pleader appearing for the respondents. Though it is submitted by the learned Counsel for the petitioner, that show cause notice dated 20-10-1990 is not served on the petitioner before passing the order of cancellation of D-Form patta, but however, this aspect need not be gone into, as impugned order is liable to be set aside on the ground of jurisdiction itself. In view of the judgment referred above, and, having regard to the allegations made against the petitioner, the competent authority to cancel the patta is, District Collector under AP Board Standing Order 15, but not Mandal Revenue Officer. So far as the judgment relied on by the learned Counsel for the petitioner, supports the case of the petitioner, on his submission that MRO did not have jurisdiction to pass the order of cancellation of patta, on that short ground, the impugned order is liable to be set aside. Accordingly, the order dated 25-2-1990 in proceedings Rc.No.2703/85 of the Mandal Revenue Officer is set aside.

The Writ Petition is accordingly allowed. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATED: 01-02-2005.

Msnr